

**DURHAM, NORTH CAROLINA
WEDNESDAY, NOVEMBER 28, 2007
5:30 P.M.**

Pursuant to the proper notification, the Durham City Council held a special meeting on the above date and time in the Council Chamber in City Hall with the following members present: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: Mayor Bell.

Also present: City Manager Patrick Baker, Senior Assistant City Attorney Karen Sindelar and City Clerk D. Ann Gray.

**SUBJECT: MAJOR SPECIAL USE PERMIT – RECLAMATION STATION
RECYCLING CENTER (M07-01) – 1404 ANGIER AVENUE**

Mayor Pro Tempore Cole-McFadden called the special meeting to order and noted the purpose of the meeting. She stated the hearing in this matter is judicial in nature and will be conducted in accordance with special safeguards.

City Clerk Gray swore in the following individuals: Steve Medlin, Mike Stock, A. T. Rolan, Patrick Byker, David Harris, Todd M. Parrott, Aidil Collins, Jason Jackson, Van W. Kloempken, Mary Mays, James Chavis, Lenora Smith, Marion Lambeth, Harold Chestnut, Alvis Aiken, Pattie Clinger-Borsey, Lula Rogers, LaTonya Gilchrist McRay, Rev. Melvin Whitley, Charles Simon, Artis Plummer, Marc Dreyfors and David Arthur.

Before opening the hearing, Mayor Pro Tempore Cole-McFadden asked Council to reveal possible conflicts and any information or special knowledge about this case.

Council Members had no possible conflicts or special knowledge of the case.

Patrick Byker, representing the applicant, introduced himself.

James Chavis, representing PAC 1, introduced himself.

Mayor Pro Tempore Cole-McFadden opened the hearing on Case M07-01.

Testimony from Staff

Mike Stock, of the City/County Planning Department, requested that all the staff report and all attachments and exhibits be entered as part of the permanent record. Also, he stated that all required mailings and newspaper notification along with the required posting on the subject site has taken place and affidavits are on file for review.

Mike Stock stated Reclamation Station, LLC is the applicant for the request of a major special use permit to use the site located at 1404 Angier Avenue for a mobile recycling

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center [for the operation of grease; trapped waste and used fryer oil into water and material for biodiesel fuel]. No improvements are proposed for the site associated with the proposed use. The site, once used for fuel and oil storage is currently used for industrial-related uses such as biofuel distribution and auto repair. All equipment for the proposed use is mobile and contained within the established loading area of the site. No site plan is required since no new development is proposed and no additional parking or buffering is required as a result of the proposed use. Recycling centers are required to receive a major special use permit within the Industrial Light (IL) zoning district.

Mr. Stock stated as a reminder, the City Council must make findings of fact under Section 3.9 of the Unified Development Ordinance that the proposed use is: 1) in harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) in conformance with all special requirements applicable to the use; and 3) will not adversely affect the health or safety of the public.

Mr. Stock stated the City Council shall also give consideration to the review factors specified in Section 3.9.8B as indicated in the staff report. He stated City Council may impose conditions on the permit request that it deems necessary to ensure that this project is compatible and in harmony with the surrounding neighborhood.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Testimony from the Applicant

Patrick Byker, representing the applicant Reclamation Station, LLC, noted Mr. Van Kloempken, the manager and co-owner of the Reclamation Station would address the operations of the business on the site. Also, he referenced others individuals who would be speaking on this case.

Van Kloempken, Manager of Reclamation Station, noted the Reclamation Station is a new company that he and his wife created to dewater grease trap waste. He referenced the requirements of restaurants (commercial kitchens) to maintain a grease trap to help maintain the city sewer systems. He stated unfortunately there are not sufficient disposal sites. He stated they want to provide Durham with a much needed site to get rid of the waste. To clear up confusion, Mr. Kloempken referenced the operation of the site, the contents of a grease trap, the equipment that will be used, and monitoring of water by City of Durham. He stated the operation is totally non-hazardous, nothing is explosive and they are controlled by the solid waste division of DENR. He also referenced a brochure entitled "Question and Answers" and stated he personally guaranteed there will not be health hazard, an odor problem and no one will have their property values lowered because of the operation. He stated his operation will be a good thing for Durham.

The applicant presented to the City Attorney a brochure entitled "Questions and Answers about the Water Filtration Project Proposed for 1404 Angier Avenue."

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Senior Assistant City Attorney Karen Sindelar stated the brochure presented by the applicant is admitted as the applicant's Exhibit #1.

Council Member Stith asked the applicant what would be his plan if the operation became a problem.

Van Kloempken stated the only problem he could remotely foresee occurring would be an odor problem. He stated there is no risks of explosion, no risks of contamination. He referenced things they could do to eliminate odors. Mr. Kloempken referenced the permitting review and leaving the site if it became an issue in the community.

Mr. Kloempken made comments on an odor eliminating mister and its effectiveness.

David Harris, President of the Inter-Neighborhood Council, spoke in support of the Reclamation Station. He stated at their meeting last evening a presentation was provided and a motion was approved to support this proposal.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Mayor Pro Tempore Cole-McFadden asked Mr. Harris if he had an opportunity to speak with all the residents in the community that might be affected by this project.

David Harris replied no. He stated he had spoken to a few of the community residents and they have taken the time to speak and view the site.

Terry Rolan, a resident of Maxton, NC and also the retired Water Management Director for the City of Durham, stated he was familiar with this process and noted it would help the restaurants and other commercial establishments that are required by the city's sewer use ordinance to have grease traps installed and maintain those properly. He stated this station would provide a better service than what the current establishments have now. Mr. Rolan referenced an annual report provided by the City of Durham on the operation of the wastewater system [particularly the collection system] and a graph analysis noting the total number of blockages in the system and the total number attributed to grease. He stated anything the city could do to encourage people to maintain grease traps more frequently and in a better way would help address that problem. Also, Mr. Rolan referenced a draft copy of a discharge permit that the city would issue if the item is approved. Mr. Rolan stated in his opinion there is nothing in the operation of the Reclamation Center as proposed that would be detrimental to the water or wastewater system of the City of Durham.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Senior Assistant City Attorney Karen Sindelar stated they will accept into evidence and admit Exhibit #1-A [Graph of City of Durham Grease Impacts] and Exhibit #2 [Industrial Wastewater Discharge Permit] referenced by Terry Rolan.

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Todd Parrot, of the John R. McAdams Company, addressed the council on how the Reclamation Station is in harmony with the area. Also, he provided Exhibit #3 a photo of the site and its surrounding uses.

Patrick Byker stated we submit Exhibit #3 as an illustrative of Mr. Parrot's testimony in order to assist the council in evaluating the Reclamation Station's harmony with the area.

Senior Assistant City Attorney Karen Sindelar stated Exhibit #3 is accepted and admitted for illustrative purposes.

Todd Parrott proceeded with his testimony on the current surrounding uses and referenced eleven specific review factors in the UDO for approving a major special use permit. Mr. Parrot asked council to support the major special use permit for the project.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Council Member Catotti asked if there was any documentation to illustrate that the HOPE VI people are in support of this project.

Todd Parrott stated he did not have any documentation. He stated he did have a conversation with Jeff Heisler a month ago.

Senior Assistant City Attorney Karen Sindelar stated this is hearsay evidence and this kind of evidence cannot be accepted.

Council Member Woodard asked where on the site would the collection of the grease take place.

Van Kloempken stated they would not be using the tanks in the tank farms. Mr. Kloempken referenced a drawing to point out where the tanks would be located.

Mike Stock, of the City/County Planning Department, stated in the staff report the applicant did submit an aerial photo that contains some labeling which is the loading area.

Council Member Woodard asked about other businesses on the site and the location.

Patrick Byker stated Marc Dreyfors would provide testimony regarding other businesses on the site.

At this time, Senior Assistant City Attorney Sindelar stated she would like to address a procedural matter. She stated Council Member Brown arrived at the hearing about four minutes into the testimony and he has indicated that he would like to hear the case and be involved in the decision making. Ms. Sindelar asked Council Member Brown the following questions: Do you have any conflict that would prevent you from deciding the

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case in a fair and impartial manner, have you heard any information about the case other than what may have been presented at the prior council meeting or work session.

Council Member Brown replied no to both questions.

Ms. Sindelar asked the applicant and the opponents if they had any objection to Mr. Brown participating.

Patrick Byker, representing the applicant, stated they had no objection with Council Member Brown voting on this matter and waive any rights they have in regards to Council Member Brown voting on this case.

A citizen representing the opponents stated they have no objection.

Senior Assistant City Attorney Sindelar stated Council Member Brown can now fully participate in the proceedings.

Mary Mays, a resident of 1406 Angier Avenue, spoke in support of the Reclamation Station and stated she did not believe it would be an adverse impact on her property value.

Mayor Pro Tempore Cole-McFadden asked if there are any questions.

Patrick Byker asked Ms. Mays if she thought the operation of the Reclamation Station would hurt her property value.

Mary Mays replied no.

Marc Dreyfors, a resident of Rollingwood Drive, referenced organizations currently located on the site and stated they are very interested in seeing the Reclamation Station operation share the site with them. He stated they have indirect benefits from the proposed operation. He did state they were very concerned about the issue of odor in terms of the operation and have made a promise to the community and neighbors [that if there is a problem from either the odor or anything else on the site] it will be addressed promptly, and if the problem cannot be solved, the Reclamation Station will be asked to move. Mr. Dreyfors stated they currently house at this site a [non-profit Environmental Forest Foundation] and Forest of the World - and they are very sensitive to issues of degradation to their property and crafts as well as the operation of the site.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Council Member Stith asked what would be the enforcement mechanism if this project is approved.

Senior Assistant City Attorney Karen Sindelar stated in order to have some type of mechanism for enforcing a requirement - something would need to be written in the order

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granting approval as a condition. She stated the draft order presented by staff does not address enforcement because this has just come up in the evidence this evening.

Patrick Byker asked Mr. Dreyfours to state the companies or firms located on the site in which he has an ownership interest.

Marc Dreyfours referenced the following businesses on the site: Forest of The World, Carolina Biodiesel, Greenway Transit, Forest Foundation and Orange Recycling Services. He stated with regards to his ownership interest he did not think the granting of the permit would be harmful to his property value, but hoped it would enhance some of the organizations they are involved with.

Jason Jackson, a graduate of TROSA and an employee of Mr. Kloempken, stated Mr. Kloempken gave him an opportunity to change his life and become a productive citizen.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Aidil Collins, a resident of Vale Street, referenced the reasons she supported the major special use permit request.

Council Member Woodard asked who is the owner of the property.

Patrick Byker stated it belongs to Unity Oil the prior operator of the site.

Marc Dreyfours stated Unity Oil has signed a lease-to-own contract with Orange Recycling. He stated they lease from them space and are in negotiations to become a co-owner at some point pending a phase II site assessment with regards to environmental contamination. He stated they are waiting for the City of Durham to approve the EPA funded site assessment phase II to determine the disposition and purchase of the property.

David Arthur, a resident of Vale Street, spoke in support of the request.

Patrick Byker summarized the testimony provided to show they have submitted evidence on the record for all the criteria required to approve the major special use permit. He asked the council to support the item.

Mike Stock, of the City/County Planning Department, stated in the application it states that waste vegetable oil will be stored and made available for other companies to use in the manufacture of biodiesel.

Van Kloempken stated his business is dewatering the grease trap waste; however, they collect a minimal amount of waste vegetable oil and is non-hazard.

Discussion held on termination section in the UDO.

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Senior Assistant City Attorney Sindelar stated the most protective mechanism for the interest of the neighborhood and the city would be to add a condition regarding odor. She stated the issue of termination is an additional item and the council could also add a condition that says that “if additional equipment does not adequately address the odor then the use would have to terminate.”

Council Member Clement raised questions regarding who the owners are and asked if the proposal conformed to all UDO regulations.

Mike Stock, of the City/County Planning Department, stated the proposal is in conformance with UDO in terms of technical requirements.

Council Member Clement inquired about the hiring policies, demographics of the organization and why this location in East Durham.

Van Kloempken addressed his workforce and stated the East Durham site is unique because of the physical things already on the property.

Council Member Clement stated the process looks as if it will require frequent monitoring [for odor and other affects that might occur].

Mike Stock, of the City/County Planning Department, stated the facility itself requires all the permits [not only city permits but state permits in terms of being able to operate]. He stated a condition could be added to the use permit that they maintain all city and state approvals as a part of the recommendation.

Van Kloempken referenced a city employee Reggie Hicks who is the City of Durham’s pre-treatment inspector and stated he will be one of the people who monitors what goes on at the site. He referenced the permitting requirement by DENR and their monitoring.

Mike Stock, of the City/County Planning Department, stated if there is a violation of the use permit and that is brought to the attention of the Planning Department – the permit can be pulled.

Van Kloempken referenced the levels of checks and balances at the state and city level.

Mayor Pro Tempore Cole-McFadden recognized the opponents for testimony.

Testimony from Opponents

James Chavis, representing PAC 1, provided a letter dated October 22, 2007 addressed to City Manager Baker from the PAC 1 Co-Facilitators [Gwyn Silver and Melvin Whitley] and referenced a meeting held on October 20, 2007 where PAC 1 members voted to send a letter of concern to not let this type of business be re-established back into the community. He stated he was opposed to this type of business on 1404 Angier Avenue.

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For clarification, Senior Assistant City Attorney Sindelar referenced the materials given by James Chavis [environmental concern petition and letter dated October 22, 2007 addressed to City Manager Baker as Exhibit #1 from the opponents].

James Chavis stated they canvassed the area to find out what the neighbors knew about the company and presented document entitled canvassing of Angier Avenue Area. He stated he personally visited each of the addresses listed.

The canvassing information presented by James Chavis was shared with Patrick Byker.

Senior Assistant City Attorney Sindelar accepted the canvassing information as Exhibit #2 for the purpose of setting forth the witnesses observation as to the various properties that are listed.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

For clarification, Council Member Clement asked Mr. Chavis if each individual who signed the petition is present this evening.

James Chavis replied yes. Also, he stated PAC 1 voted not to accept this facility.

Gwyn Silver, Co-Facilitator for PAC 1, made reference to the motion that was carried at the PAC 1 meeting opposing the Reclamation business.

Mayor Pro Tempore Cole-McFadden asked Ms. Silver if there was a community meeting at any junction to provide education about this project.

Gwyn Silver stated they sent a letter to the City Manager asking to meet with the owners of the business and they did not get a response.

Referencing the October 22, 2007 letter from PAC 1 co-facilitators, Patrick Byker stated the letter mentions recycling oil. He asked Mr. Chavis and Ms. Silver what was PAC 1's understanding of the term recycling oil for oil reclamation as referred to on the environmental concern petition.

Gwyn Silver stated one of the things presented here tonight is that there has been a lot of misconception about what is taking place at 1404 Angier Avenue and she stated they may not have been very much aware of the process. She stated they have found out tonight there are several other businesses operating at the same address.

Patrick Byker asked if it was the understanding of PAC 1 that the operation at 1404 Angier Avenue would be identical to the operation proposed at 211 Plum Street.

As previously mentioned, Ms. Silver stated there has been a lot of misconception about these companies. She stated they did find out later that the operation on Plum Street is

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no longer in business. She stated they just wanted to make certain they addressed all the concerns.

Lenora Smith, a resident of North Roxboro Street, asked council to not look at the short term benefits. She spoke highly of TROSA and submitted her environmental concern petition to not accept this type of business until there is a better understanding about the long term plan for assisting the community in the revitalization efforts.

Senior Assistant City Attorney Sindelar stated since the blank petition and the letter has already been accepted from the opponents as exhibits, she stated they will be labeled 1a; 1b; 1c.[they are basically the same document signed by various people].

Harold Chestnut, a resident of Athens Street, voiced concern with the current odor from another business in the area. He stated they have fought so hard to get rid of the gas pumps/gas tanks on Angier Avenue. Mr. Chestnut stated he was from PAC 4 and they were not informed about this.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Council Member Clement requested that this item be delayed until more input can be obtained from the community. He stated PAC 4 should be allowed to hear the proposal at their next meeting.

Van Kloempken stated he was spending his salaries/savings and stated he would not prefer a delay. He mentioned a previous delay in September 2007 which cost them \$12,000. He stated they have made lots of attempts to communicate with the community and they never received the letter that PAC 1 sent to the City Manager. He stated they will be willing to speak to PAC 1 and PAC 4 even if the council approves the item. Mr. Kloempken stated if council approves this item this evening, the project will not happen overnight and there is still time for discussions. Mr. Kloempken stated Mr. Whitley of PAC 1 was asked to come visit the site; however, no interest was shown by anyone.

Patrick Byker, representing the applicant, stated their strategy was to approach the immediate property owners and they have testified tonight that they feel this proposal will not affect their property value.

Senior Assistant City Attorney Sindelar reminded the council that there will be a change on the council and therefore to come back after next Monday evening, the hearing would need to be held all over again. She stated the council has the choice tonight to grant with conditions, deny the permit or possibly defer and delay and have an entire new hearing at some point.

Melvin Whitley, a resident Harvard Avenue, stated it would have been inappropriate for him as leader of the PAC to go against the wishes of the PAC. He stated if he would have visited the site, it could very well be used as an example of support. Mr. Whitley stated in October they asked for a meeting through the City Manager but it did not

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happen. He stated PAC 1 should have had the opportunity to meet with the business and receive comments from the community. Mr. Whitley referenced one of the review factors for special use permits [effect on nearby property includes but not limited to, the effect of noise and odor]. He referenced that the staff analysis and conclusion states that some odor is anticipated from the proposed use. Mr. Whitley also referenced the brochure provided by the applicant noting there is language stating “will it be noisy or stink.” He stated the owner already knows there will be an odor from his facility and there have been complaints. Mr. Whitley asked the council to make sure the community has some relief from this odor.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Patrick Byker, representing the applicant, asked Mr. Whitley to explain the statement of complaints since the facility is not currently in operation.

Melvin Whitley referenced the brochure that was submitted as evidence by the applicant noting there has already been a complaint of an odor.

Patrick Byker stated Artis Plummer is the person who filed that complaint and he is here to clarify that.

Senior Assistant City Attorney Sindelar stated Mr. Whitley has submitted his petition and some other petitions and asked the other persons to acknowledge their petitions by standing to show their opposition to this proposal [Lula Rogers; Patty Clinger-Borsey; and Latonya Gilchrist McRay] petitions will be marked 1c; 1d; 1e; and 1f.

Artis Plummer, a resident Bacon Street, stated he owns quite a bit of property on both sides of the proposed site and he was concerned about his tenants and his business. Mr. Plummer stated after receiving additional information from the applicant this evening and others, he now supports this proposal. Mr. Plummer commented on an odor in July that had the smell of french fries.

Marc Dreyfors addressed the issue of the smell addressed in the pamphlet.

Alvis Aiken, resident Woodland Park Road, spoke in opposition to the proposed facility at 1404 Angier Avenue. He referenced the staff analysis and conclusion that some additional odor is anticipated. Mr. Aiken stated if odor does occur, there is no risk management plan or backup plan. He referenced state legislation and ordinances not being clear when it comes to odor and the damage that can occur. Mr. Aiken spoke in support of the applicant coming to PAC 1 and making a presentation. Also, Mr. Aiken stated he has not been convinced that this type of business falls within the harmony of the NECD Strategic Revitalization Plan or the RKG market economic assessment that was done and approved by the City Council. He stated currently there is a brownfield’s grant for this particular area. Also, Mr. Aiken referenced that the applicant stated in his testimony that his business would not do anything for revitalization.

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Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Patrick Byker, representing the applicant, stated to clarify his client's testimony - Mr. Kloempken stated he has a small business. Mr. Byker said every small business has an impact regardless how small it is and Jason Jackson is a testimony to that.

Alvis Aiken stated he would like to hear from a professional realtor or a real estate firm to give their view on this business coming to the area with regards to the property values.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Council Member Stith asked were there attempts to meet with PACs 1 and 4.

Van Kloempken stated he learned about Mr. Whitley's concern of the project a few days before Thanksgiving. He stated they have talked with everyone that lives immediately around the property. Also, he stated he told Mr. Whitley he would come and meet with him but Mr. Whitley stated he needed to come to the PAC 1 meeting in December. Mr. Kloempken stated he informed Mr. Whitley that he would not be able to meet in December because his project has been postponed several times and the bills keep adding up. He said Mr. Whitley stated he would try to get an emergency committee meeting of PAC 1 before tonight.

It was noted the reference of PAC 4 came from the Chair [Mr. Chestnut] and not Council Member Clement.

Marion Lambeth, a resident of Dale Street, presented her petition opposing the Reclamation Station.

Senior Assistant City Attorney Sindelar stated Ms. Lambeth's petition will be marked as 1g.

Marion Lambeth stated she was basing her opposition on the staff's report. She mentioned the staff report indicates some additional odor is anticipated. Ms. Lambeth also raised concern with the truck traffic that will be generated and she voiced concern that the NECD Leadership Team was not contacted. Ms. Lambeth stated there should be special efforts made when a business wants to come into an area to promote environmental sustainability that is already economically deprived.

Mayor Pro Tempore Cole-McFadden asked if there were any questions.

Marc Dreyfors stated about a year ago Carolina Biodiesel made a presentation about sighting a biodiesel facility in the area. He also extended again the opportunity for his organization to present to PAC 1.

Van Kloempken, the applicant, stated they will accept whatever restrictions or recommendations that the council would like to have.

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Marion Lambeth referenced the NECD Leadership Team and their role in the community.

Senior Assistant City Attorney Sindelar stated one additional petition was provided by Alvis Aiken which will be admitted as evidence 1(h).

Charles Simon Jr., a resident of Lindley Drive, voiced concern with possible odor and possible health risks. Also, he stated they needed to be very careful about what businesses they allow to come into District 1. Mr. Simon submitted his petition.

Senior Assistant City Attorney Sindelar stated Mr. Simon's petition will be marked as 1(i).

Van Kloempken stated he will guarantee 100% that there will not be an odor problem coming off the property from his operation.

Gwyn Silver submitted her petition in opposition to the Reclamation Station.

Senior Assistant City Attorney Sindelar stated Ms. Silver's petition will be accepted as 1(j).

Gwyn Silver stated District 1 has not been moving as fast as other areas in the city. She referenced the approval of the RKG Revitalization Plan by the City Council. She asked the council to stay committed to the adopted plan.

Patrick Byker, representing the applicant, stated everyone that has testified in opposition to the permit is not indicated as a property owner on Exhibit 3. He referenced the property owners who testified this evening indicated on Exhibit 3 stating they believe this proposal will not affect their property value. Mr. Byker said this is the standard that the council needs to grant the major special use permit.

Mayor Pro Tempore Cole-McFadden closed the public hearing.

Recommendation by Staff

Mike Stock, of the City/County Planning Department, stated based upon the information presented by the proponents and opponents and the information presented in the staff report – staff does recommend approval with a list of conditions as follows:

1. Materials recycled on the site shall be limited to grease trap waste and used fryer oil.
2. The recycling center facility shall be limited to two mobile tanks.
3. The location of the tanks shall remain substantially consistent as indicated in the application.

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4. The spill containment system (which as been re-piped to the sanitary sewer system) and operations of the facility itself shall maintain all applicable City and State permits.
5. Changes to the site upon which the recycling center will be located shall be limited to those that mitigate the health, safety or environmental impacts of the project, as reasonably determined by the Planning Director.
6. Odor eliminating misters, or other industry-recognized odor elimination equipment, are required to be in operation. Odor from the recycling center shall be adequately controlled so that it is not detectable off-site, as reasonably evaluated by the Planning Director.
7. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday.
8. The applicant shall meet with PACs 1 and 4 and establish a mechanism for addressing citizens' concerns.

Council Member Woodard asked is there any reason that PAC 5 was not included in condition #8.

Mike Stock stated they can add PAC 5 to condition #8.

Senior Assistant City Attorney Sindelar referenced the language in the order stating "this special use permit shall become null and void upon determination by the appropriate officials that any of the above conditions has not been complied with."

Senior Assistant City Attorney Sindelar referenced condition #2 stating facility shall be limited to two mobile tanks. She stated there was testimony that they would be bringing on site a dumpster; etc.

Van Kloempken, the applicant, asked that the condition #2 read as follows: The recycling center storage facility shall be limited to two mobile tanks. He also described the other equipment that would be used on site to handle the liquid storage.

Patrick Byker, representing the applicant, asked that condition #7 allow trucks that arrive late on Friday to be processed on Saturday.

For clarification, Mike Stock asked if Mr. Byker if he was requesting 7:00 a.m. to 6:00 p.m. Monday thru Friday and adding Saturday 7:00 a.m. to noon.

Patrick Byker replied that is correct.

Council Member Brown raised concern with the notification process and welcomed the addition of condition #8. Also, he expressed concern with misinformation.

Council Member Catotti suggested that Northeast Central Durham Leadership Team be added to condition #8. Also, she suggested the start time on Saturday - 8:00 a.m. instead of 7:00 a.m.

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Patrick Byker, representing the applicant, agreed with the 8:00 a.m. start time on Saturday.

Mayor Pro Tempore Cole-McFadden shared with the applicant that most people that do business in Durham is aware that the Durham City Council listens to the PAC and neighborhood leadership. Also, Mayor Pro Tempore Cole-McFadden stated it was unfortunate that the city did not respond to the October 22, 2006 letter from PAC 1.

MOTION by Council Member Clement seconded by Council Member Woodard to adopt an order granting, as proposed with amended conditions, a major special use permit for a Reclamation Recycling Center located at 1404 Angier Avenue was approved at 8:50 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Stith. Noes: None. Absent: Mayor Bell.

Ordinance #13509

There being no further business to come before the council, the special meeting was adjourned at 8:50 p.m.

D. Ann Gray, CMC
City Clerk